

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty) (PCT Rule 44bis)

Applicant's or agent's file reference 539.6006.2	FOR FURTHER ACTION		See item 4 below
International application No. PCT/US2004/012421	International filing date (day/month/year) 22 April 2004 (22.04.2004)	Priority date (day/month/year) 22 April 2003 (22.04.2003)]	
International Patent Classification (IPC) or national classification and IPC A61N 1/18, 1/39			
Applicant MEDTRONIC PHYSIO-CONTROL CORP.			

<p>1. This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 bis.1(a).</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>	
<p>3. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input checked="" type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	<p>4. The International Bureau will communicate this report to designated Offices in accordance with Rules 44bis.3(c) and 93bis.1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44bis.2).</p>

<p>The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>	<p>Date of issuance of this report 28 October 2005 (28.10.2005)</p>
	<p>Authorized officer Simin Bahariou</p> <p>Telephone No. +41 22 338 71 30</p>

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/US2004/012421

International filing date (day/month/year)
22.04.2004

Priority date (day/month/year)
22.04.2003

International Patent Classification (IPC) or both national classification and IPC
A61N1/18, A61N1/39

Applicant
MEDTRONIC PHYSIO-CONTROL CORP.

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
☒ Box No. II Priority
☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
☐ Box No. IV Lack of unity of invention
☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
☐ Box No. VI Certain documents cited
☐ Box No. VII Certain defects in the international application
☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



European Patent Office
D-80238 Munich
Tel. +49 89 2399 - 0 Tx: 523656 epmu d
Fax: +49 89 2399 - 4465

Authorized Officer

Chopinoud, M
Telephone No. +49 89 2399-7365



Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(a)).
- ☐ translation of the earlier application whose priority has been claimed (Rule 43*bis*.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43*bis*.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.
3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43*bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-26
Inventive step (IS)	Yes: Claims	
	No: Claims	27-70
Industrial applicability (IA)	Yes: Claims	1-70
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Reference is made to the following documents:

D1: WO 01/66182 A (CARDIAC SCIENCE INC) 13 September 2001 (2001-09-13)
D2: US 2003/028219 A1 (PICARDO ANTHONY G ET AL) 6 February 2003 (2003-02-06)

2. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 1 is not new in the sense of Article 33(2) PCT.**

Document D1 discloses (the references in parentheses applying to this document) **a modular external defibrillator system**, comprising :
a base containing a **defibrillator module** (defibrillator module 32, figure 1);
a pod having a patient parameter module with patient lead cables attachable to a patient to collect at least one patient vital sign, the pod operable at a distance from the base (generic patient monitor 12, figure 1); and
a communication link (see claim 1, line 5) between the pod and the base to carry at least one vital sign from the pod to the base, the defibrillator module delivering a defibrillation shock to the patient based on the at least one vital sign (see claim 1, lines 6-8 and description page 8, lines 3-12).

3. The same remark can be applied for the **independent claim 12** for the same reasons (and see D1, description page 6, line 15)
4. **Dependent claims 2-11 and 13-26** contain either features known per se from the prior art or being simple constructional features. Thus they would only satisfy Art. 33(2),(3) PCT when referring to patentable independent claims.
5. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of **claim 27 does not involve an inventive step** in the sense of Article 33(3) PCT.

The **device** described in independent claim 27 differs from that disclosed in document D1 in that the **base comprises a latching assembly to mount the pod in a releasable manner.**

The technical problem to be solved by the invention can thus be stated as that of providing a **device easy to use and compact.**

The solution proposed in claim 27 of the present application cannot be considered as involving an inventive step (Articles 33(1) PCT) for the following reason:

Document D2 pertains to a **modular medical device, base unit and module thereof wherein the base comprises a latching assembly (see paragraph 30).**

D2 refers to the same kind of device as D1. The skilled person would therefore consider to include said feature of D2 in the device described in document D1 in order to solve the problem.

6. The same remark can be applied to the **Independent claims 42, 52, 57 and 67 for the same reasons.**
7. **Dependent claims 28-41, 43-51, 53-56, 58-66 and 68-70** contain either features known per se from the prior art or being simple constructional features. Thus they would only satisfy Art. 33(2),(3) PCT when referring to patentable independent claims.
8. In order to facilitate the examination of the conformity of the amended application with the requirements of Article 34(2)(b) PCT, the applicant is requested to **clearly identify the amendments carried out**, no matter whether they concern amendments by addition, replacement or deletion, and to indicate the passages of the application as filed on which these amendments are based (see also Rule 66.8(a) PCT).

If the applicant regards it as appropriate these indications could be submitted in handwritten form on a copy of the relevant parts of the application as filed.